

EE245000641US

Date: November 20, 2001

Casc APT-95-2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION:

INVENTORS: Anthony Passera et al. )  
SERIAL NO.: 08/624,844 )  
TITLE: Systems For Analyzing And )  
Computing Data Items )  
FILING DATE: March 25, 1996 )

I, Edward W. Porter, hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
Commissioner of Patents and Trademarks,  
Washington, D.C. 20231 on 7/25/96  
Signature *Edward W. Porter* Date 7/25/96

DECLARATION  
AND  
POWER OF ATTORNEY

As one of the below named joint inventors, I hereby declare the following:

-That I verily believe that the below named joint inventors are the original, first and only inventors of the invention entitled Systems For Analyzing And Computing Data Items, which is described and claimed in the specification of the above identified application by that name;

-That I have reviewed and understand the contents of that specification, including its claims;

-That I do not know and do not believe that the same was ever known or used in the United States of America before our invention thereof or patented or described in any printed publication in any country before our invention thereof, or more than one year prior to this application, or in public use or on sale in the United States of America more than one year prior to this application;

-That the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application;

-That I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, as provided in 37 C.F.R. 1.56; and

-That no application for patent or inventor's certificate on this invention has been filed by me or my legal representatives or assigns in any country foreign to the United States of America.

I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

In addition, I, as a named inventor, hereby appoint Edward W. Porter, Registration Number 28,892, with full powers of association, substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith and to prosecute foreign and/or international applications relating to any invention in the disclosure of this application before the appropriate foreign or international authorities. Please send

EXPRESS MAIL NO. EL056825715US

correspondence to said Edward W. Porter, Porter & Associates, One Kendall Square, Suite 2200, Cambridge, Mass. 02139. Please direct telephone calls to Edward W. Porter at (617) 494-1722.

IN WITNESS WHEREOF, I hereby sign my signature below on the date indicated next to my signature as one of the joint inventors of the above identified patent application.

NAMED INVENTORS:

1. Anthony Passera, (my full name) a citizen of the United States of America residing at and having a postal address at 4 Washburn Street, Watertown MA 02172.

Signature Anthony Passera Date 7/19/96

2. John R. Thorp, a citizen of the United States of America residing at and having a postal address at 9922 Evergreen Avenue, Columbia, MD 21046.

Signature [Signature] Date 7/19/96

3. Michael J. Beckerle, a citizen of the United States of America, residing at and having a postal address at 62 Beaufort Ave., Needham, MA 02192.

Signature Michael J. Beckerle Date 7/18/96

4. Edward S. A. Zyszkowski, a citizen of the United States of America, residing at and having a postal address at 7 Oak Street, Newton, MA 02164.

Signature \_\_\_\_\_ Date \_\_\_\_\_

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION:

INVENTORS: Anthony Passera et al. )  
SERIAL NO.: 08/624,844 )  
TITLE: Systems For Analyzing And )  
Computing Data Items )  
FILING DATE: March 25, 1996 )

July 25, 1996

I, Edward W. Porter, hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on 7/25/96

Signature Edward W. Porter Date 7/25/96

Hon. Commissioner of Patents and Trademarks  
Washington, D.C. 20231

PETITION UNDER 37 CFR §1.47(a)  
TO ALLOW JOINT INVENTORS TO PROSECUTE A PATENT APPLICATION  
WITHOUT THE SIGNATURE OF ONE JOINT INVENTOR

Dear Sir:

Anthony Passera, John R. Thorp, and Michael J. Beckerle, (the "Applicants") herewith petition the Commissioner of Patents and Trademarks to allow the above identified application ("This Application") to be made by the Applicants, who comprise all of the joint inventors of This Application except for Edward S. A. Zyszkowski, whose last know residence is 7 Oak Street, Newton, MA 02164. Pursuant to 37 CFR §1.47(a) the Applicants request that This Application be made on their behalf and on behalf of Mr. Zyszkowski. This petition accompanies a Declaration and Power of Attorney signed by all of said inventors except Mr. Zyszkowski.

Mr Zyszkowski was a founder of, and an employee of, Applied Parallel Technologies, Inc. ("APT"), the assignee of This Application. He signed an employment contract obligating him to assign the innovations covered in This Application to APT.

The undersigned attorney faxed a first draft of draft of This Application, including specification, claims, and drawings, to Mr. Zyszkowski on December 14, 1995. In response to suggestions made by Mr. Zyszkowski and other inventors the undersigned attorney made changes to the application on January 2, 3, and 5, 1996. In January 1996, the undersigned attorney sent a

EXPRESS MAIL NO. EL056825715US

copy of the corrected application to Mr. Zyszkowski. This Application was filed in the form it had when sent to Mr. Zyszkowski in early January 1996.

The filing of This Application was delayed until the completion of another application (the "APT95-1 Application"). This Application was filed on March 25, 1996, without any inventor signatures. Approximately one week before the filing of This Application, Mr. Zyszkowski's employment at APT was terminated.

On at least two occasion shortly after the filing of This Application Mr. Zyszkowski assured the undersigned attorney that he would sign the declaration and assignment relating to This Application and the APT95-1 application filed the same date, despite the termination of his employment by APT.

On July 8 and 9, 1996, the undersigned attorney left a message on the phone answering machine at Mr. Zyszkowski's home concerning the desire to sign declaration and assignment documents relating to This Application and the APT95-1 Application (together "The Two Applications") before July 25, 1996.

On July 10, 1996, Mr. Zyszkowski, who was on vacation in New York state, returned the call. The undersigned attorney told Mr. Zyszkowski that APT desired to file the declaration and assignment documents in The Two Applications before July 25, 1996, so as to avoid having to pay the fee for an additional one month extension of time. Mr Zyszkowski stated he would sign the documents and that he would meet with the undersigned attorney to do so after he returned to the Boston area on July 17, 1996.

After several more calls to arrange a meeting time, the undersigned attorney met with Mr. Zyszkowski for lunch on Thursday July 18, 1996. At that meeting Mr. Zyszkowski indicated he would be leaving town on Wednesday, July 24, 1996 at about mid-day. He requested more time to read the specification of the APT95-1 Application, which was presented to him for the first time at the meeting, before signing the papers relating to either of The Two Applications. He suggested that the undersigned attorney meet with him the next day to sign the documents. When the undersigned attorney told Mr. Zyszkowski that This Application was filed in the form of the last draft of the application the undersigned attorney had sent to him at APT long before the case was filed, Mr. Zyszkowski told the undersigned attorney that he had read all the drafts of This Application sent to him before his departure and thus he did not need to see a copy of This Application before signing the declaration relating to it.

On Friday, July 19, 1996, the undersigned attorney received a phone call from Mr. Zyszkowski stating that an attorney who was representing him with regard to the termination of his employment by APT had wanted to review the documents the undersigned attorney had given him, including a declaration form. He indicated the review was a mere formality, and expected we would probably be able to sign the documents on the following Monday or Tuesday, July 22 or 23, 1996. The undersigned attorney later received a call from Mr. Zyszkowski stating that his attorney, a Richard Heidlage, wished to see a complete text of all the documents Mr. Zyszkowski was being asked to sign. On the morning of Monday, July 22, 1996, the undersigned attorney obtained the fax number of Mr. Heidlage from Mr. Zyszkowski and faxed Mr. Heidlage copies of the declaration and assignment documents in The Two Applications.

Latter on the afternoon of Monday, July 22, 1996, the undersigned attorney called Mr. Heidlage to see if he would allow Mr. Zyszkowski to sign the documents before Mr. Zyszkowski's expected departure at about noon on Wednesday, July 24, 1996. Mr. Heidlage stated that APT had no right to expect Mr. Zyszkowski to sign these documents on such short notice. The undersigned attorney pointed out that he had been discussing the desire to have the documents signed by July 25, 1996, with Mr. Zyszkowski for about two weeks. Mr. Heidlage alleged it was not clear Mr. Zyszkowski's employment contract with APT was enforceable, given what he alleged to have been APT's improper behavior toward Mr. Zyszkowski. Mr. Heidlage refused to state whether Mr. Zyszkowski would or would not sign the documents or when he would make a decision on that subject.

On July 23, 1996 the undersigned attorney called Mr. Heidlage's office. The undersigned was told Mr. Heidlage was on the phone. The undersigned left a message with Mr. Heidlage's secretary requesting to know if Mr. Zyszkowski would sign the documents. Mr. Heidlage did not return the call.

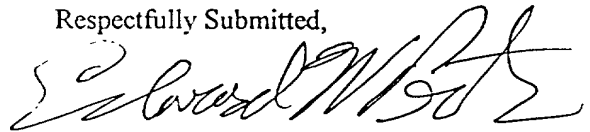
On the morning of July 24, 1996, the day Mr. Zyszkowski had previously told the undersigned attorney he would be leaving Boston for a visit to California at roughly noontime, the undersigned attorney again called Mr. Heidlage's office two times. The first time the undersigned was told Mr. Heidlage was on the phone. The second time, the undersigned was told Mr. Heidlage was unavailable after giving Mr. Heidlage's secretary his name. In both instances the undersigned left a message to have Mr. Heidlage call the undersigned attorney back about whether Mr. Zyszkowski would sign the documents. As of this writing Mr. Heidlage has not returned any of the three calls made by the undersigned on July 23 and 24, 1996.

Given that Mr. Zyszkowski's attorney, Mr. Heidlage, has not returned any of the undersigned attorney's calls, given that APT has told the undersigned attorney that Mr. Heidlage has a history of being purposely uncooperative and difficult to deal with, given that it is not clear if Mr. Heidlage will ever recommend that his client sign the declaration and assignment of This Application, it is respectfully submitted that Mr. Zyszkowski, has, through his attorney, in effect refused to sign the declaration for This Application, and the Applicants request that they be allowed to continue This Application without the signature of Mr. Zyszkowski.

Enclosed is a check for \$130.00 to cover the fee for this petition under 37 CFR §1.17(h).

If there are any questions or problems concerning this petition, please call the undersigned attorney as soon as is convenient.

Respectfully Submitted,



Edward W. Porter  
Registration No. 28,892  
Porter & Associates  
One Kendall Square  
Suite 2200  
Cambridge, Mass. 02139

EE245000641US

**ASSIGNMENT**Date: November 20, 2001

In consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, I the undersigned Edward S.A. Zyskowski, 7 Oak Street, Newton, MA 02164 hereby

Sell, assign and transfer to Torrent Systems, Inc., a Massachusetts corporation having a place of business at Five Cambridge Center, Cambridge, MA 02142, its successors, assigns and legal representatives, all hereinafter referred to as the Assignee, the entire right, title and interest for the United States and all foreign countries, in and to any and all inventions which are disclosed in the application for United States Letters Patent filed in the United States Patent and Trademark Office on March 29, 1999 under Serial No. 09/281,984, and entitled A COMPUTER SYSTEM AND COMPUTERIZED METHOD FOR PARTITIONING DATA FOR PARALLEL PROCESSING, and in and to said application and all divisional, continuing, substitute, renewal, reissue and all other applications for Letters Patent which have been or shall be filed in the United States and all foreign countries on any of said inventions; and in and to all original and reissued patents which have been or shall be issued in the United States and all foreign countries on said inventions including the right to apply for patent rights in each foreign country and all rights to priority.

I agree that said Assignee may apply for and receive Letters Patent for said inventions in its own name; and when requested, without charge to but at the expense of said Assignee, I agree to carry out in good faith the intent and purpose of this assignment, by executing all divisional, continuing, substitute, renewal, reissue, and all other patent applications on any and all said inventions, by executing all rightful oaths, assignments, powers of attorney and other papers, by communicating to said Assignee all facts known to me relating to said inventions and the history thereof, and generally by doing everything possible which said Assignee shall consider desirable for aiding in securing and maintaining proper patent protection for said inventions and for vesting title to said inventions and all applications for patents and all patents on said inventions, in said Assignee.

I hereby request the Honorable Commissioner of Patents and Trademarks to issue said Letters Patent to said Assignee.

I covenant with said Assignee that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been made to others by me and that full right to convey the same as herein expressed is possessed by me.

16 March 2001  
Date

Edward S.A. Zyskowski  
Edward S.A. Zyskowski

STATE OF Massachusetts :  
COUNTY OF Middlesex :

Subscribed and sworn to before me this 16<sup>th</sup> day of March, 2001.

SEAL Melissa McDonald  
Notary Public  
My Commission Expires 2007

